

Another Inside EPA Article

Brad Jackson

to:

Franklin Hill, Randall Chaffins, Carol Monell, Derek Matory, LaTonya Spencer, Freda Lockhart, Elisa Roberts, Jon Richards

10/07/2010 10:38 AM

Show Details

Fears Over EPA Inaction At Florida Homes Could Aid Superfund Tax Push

Posted: October 6, 2010

Rep. Earl Blumenauer's (D-OR) bid to reinstate the expired Superfund taxes on industry could be boosted by admissions from EPA officials that shrinking Superfund budgets are hampering their ability to address fears that tens of thousands of people living on former phosphate mines in Florida are being exposed to dangerous levels of radiation, a staffer for the lawmaker says.

At issue are approximately 10 square miles of former phosphate mining lands near Lakeland, FL, where EPA has taken no cleanup action despite concerns since the late 1970s that the indoor air of homes built on the lands are contaminated with cancer-causing levels of radiation.

The overwhelming cost of cleaning up the sites -- as much as \$11 billion by some estimates -- has been a factor in the lack of action, agency officials admit in documents *Inside EPA* recently obtained under the Freedom of Information Act. In addition, sources have said a potentially precedent-setting fight between EPA and the state over the appropriate cleanup standard for the sites is another major reason for the agency's inaction.

The situation in Florida as described by EPA in the documents "is a really great example for why the Superfund tax needs to be reauthorized," says a staffer for Blumenauer -- who has introduced bills that would reinstate the Superfund taxes in the last two Congresses and who sits on the House Ways & Means Committee that has primary jurisdiction over tax issues. Blumenauer could cite the Florida phosphate issue in his effort to advance his legislation through Congress, the staffer says.

Near-term prospects for the legislation are uncertain, however, as some of its proponents have publicly expressed skepticism that it will be approved this year. Asked about the prospects of the bill advancing in a lame duck session of Congress after the election, the Blumenauer staffer says only that the lawmaker would "continue to push" the issue.

The staffer's reaction to the EPA documents on the Florida sites nonetheless adds to that of environmentalists who also have said the situation demonstrates why the Superfund taxes should be reinstated. The documents show that a lack of adequate Superfund money has "diminished [EPA's] ability to act" and as a result "industry is put in the driver's seat," one activist previously told *Inside EPA*.

Under Superfund law, EPA has the authority to use its own funds to clean up a site and then sue the parties responsible for the contamination after the fact in order to recoup its costs. This authority often gives industry an incentive to clean up contamination on its own in an effort to limit costs, the EPA documents note.

But in the case of the former phosphate mining sites, EPA has no such leverage, in part because of the exorbitant cost to clean the complex residential sites, and in part because of cuts to the agency's Superfund budget in recent years, agency officials say in the documents.

"Because of the high cost and current [Superfund program] funding reductions, it is unlikely that EPA would be able to conduct the cleanups using federal funds," the EPA internal documents say. "Therefore, without the ability



10804575

for the Agency to project its resolve and ability to undertake the work on a fund-lead basis, [industry's] incentive to undertake the work to avoid excessive government costs are severely diminished."

Elevated Levels Of Radium

The main concern with the Florida sites is that former phosphate mining lands tend to have elevated levels of naturally occurring radium-226 due to past mining activity, and that thousands of people now live in homes built on top of the former mines. "Many of these homes are believed to have elevated levels of [radium-226] or gamma radiation that exceeds EPA's safe standards," according to the EPA documents.

In 2003, Region IV officials considered the potential problem at one upscale development in Lakeland, FL -- known as the Oakbridge subdivision -- to be so urgent that they planned to assess the site for a possible emergency cleanup action, the documents say. But to date, the agency has yet to take action at any of the residential sites, or warn the occupants about its concerns.

EPA officials in 2003 internal briefing documents contemplate listing the sites on its National Priorities List (NPL) for Superfund, but the mining industry, which under Superfund law would be liable for the costs of cleaning up some of the sites, "is very concerned with the stigma associated with the placement of approximately 20 sites on the NPL," the EPA documents add. "It is likely that placement of the mining sites on the NPL would destroy the mining industry's primary incentive for working with EPA," the documents say.

A spokesman for the Mosaic Company -- one of the largest phosphate miners operating in Florida and one of the companies EPA has identified as potentially responsible for the contamination in question -- previously told *Inside EPA* that the company does not believe the sites require cleanup. "While it is well known that the soil disturbance associated with mining does result in slight elevations of background radiation, there is no data to suggest that those elevations even come close to exceeding natural variations," the spokesman claimed.

A spokeswoman for Sen. Bill Nelson (D-FL), who has also introduced legislation to reinstate Superfund taxes, did not respond to a request for comment. -- *Douglas P. Guarino*

Brad Jackson
USEPA, Superfund Division
61 Forsyth Street, SW
Atlanta, GA 30303
404-562-8925